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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,310	09/09/2003	Ed H. Frank	14177US02	2145
23446 7590 07/14/2009 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER JOHNSON, CARLTON	
			ART UNIT 2436	PAPER NUMBER
			MAIL DATE 07/14/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/658,310	<b>Applicant(s)</b> FRANK ET AL.
<b>Examiner</b> CARLTON V. JOHNSON	<b>Art Unit</b> 2436

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-42.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Nasser G Moazzami/  
Supervisory Patent Examiner, Art Unit 2436

/C. V. J./  
Examiner, Art Unit 2436

## Response to Arguments

## Examiner Position:

The arguments were not persuasive in overcoming the currently rejected claims.

For claim 1, the claim limitation for the first PHY channel specifies a channel between the access point and originating access device. For claim 1, the claim limitation for the third PHY channel specifies a channel between the access point and originating access device. For claim 1, there is no limitation that restricts the second PHY channel between the access point and the originating access device. Claim 1 limitation states: "authenticating said communication session by authenticating said access using a second PHY channel". The result of this communication channel is to authenticate access for communications over the third PHY channel.

The control channel or second PHY channel is used to authenticate the originating access device. Figure 4 of the application discloses that the client transmits a client identity such as a password to an authentication server for authentication. Paragraph [0025] of the specification discloses that authentication information is transferred to an authentication server using a second PHY channel. The Weatherspoon prior art disclosing the usage of an authentication server appears to be equivalent to application's usage of an authentication server.

The authentication process enables access to any device on the wired LAN including the originating access device. This particular access to any wired device includes establishing a data channel between the ASP and any device including the originating access device. (Weatherspoon col 5, lines 29-34; access between AP and any device including originating access device)

Furthermore, Weatherspoon prior art discloses at column 3, lines 19-22, that authentication of access to the wired LAN is completed after authentication of the access point, the wireless device, and the operator.

Weatherspoon prior art discloses a first channel for authentication initiation (request). (see Weatherspoon col. 4, lines 23-29: plurality of APs and corresponding devices; col. 4, lines 32-37: establishes a communications channel)

Weatherspoon prior art discloses a second channel for authentication information. (see Weatherspoon col. 5, lines 12-19: if the wireless device is valid the AP establishes a control channel with the authentication server; transmits encrypted authentication messages that includes operator's logon name and password)

And, Weatherspoon prior art discloses a third channel for hosting (data transfers) a communications session. (see Weatherspoon col. 5, lines 29-37: authentication server validates both the AP and operator, authentication server will enable access to the wired LAN)

Chandrashekar prior art discloses a communications link between two network nodes to request the initiation and setup of a communications session. Chandrashekar discloses a communications link between two network nodes to perform an authentication procedure. And, Chandrashekar prior art discloses a communications link between two network nodes for the transmission and receipt of communications data (a session). In addition, Chandrashekar prior art discloses communications completed over a wireless communications network using access points. (see Chandrashekar paragraph [0112], lines 1-5; paragraph [0112], lines 27-28)